

**08 C 330**

**EXHIBIT A**

**JUDGE KENDALL  
MAGISTRATE JUDGE MASON**

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

KENNETH C. FLETCHER, SR.

Plaintiff,

v.

WERNER COMPANY and MENARD, INC.

Defendants.

)  
)  
) **07 L 802**  
) Case No.:  
)

) PLEASE SERVE:

) Werner Company

) c/o Registered Agent Illinois Service Corporation

) 801 Adlai Stevenson Drive

) Springfield, IL 62703

**SUMMONS**

To each defendant:

You are summoned and required to file an answer in this case, or otherwise file your appearance in the Office of the Clerk of this Court, 14 West Jefferson Street, Joliet, Illinois, Room 212, within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, summons shall be returned so endorsed.

This summons may not be served later than 30 days after its date.

WITNESS

**DEC 04 2007**

, 2007

**PAMELA J. McGUIRE**

(Clerk of the Circuit Court)

By: \_\_\_\_\_

(Deputy)

THOMAS J. MANZELLA  
BLOCK KLUKAS & MANZELLA, P.C.  
Attorney for Plaintiff  
19 West Jefferson Street  
Joliet, Illinois 60432  
(815) 726-9999

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

KENNETH C. FLETCHER, SR.,

Plaintiff,

v.

WERNER CO. and MENARD, INC.

Defendants.

Case No.:

07 L

802

FILED  
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CLERK OF COURT  
WILL COUNTY, ILLINOIS

**COMPLAINT AT LAW**  
**COUNT I**

NOW COMES, the Plaintiff, KENNETH FLETCHER, by and through his attorneys, BLOCK KLUKAS, & MANZELLA, P.C., and complaining of the Defendant, WERNER CO., states as follows:

1. Defendant, WERNER CO., is a foreign corporation licensed to do business in the State of Illinois.
2. That on or about January 13, 2006, and for sometime prior thereto, WERNER CO., (hereinafter referred to as "WERNER") was a manufacturer of ladders, specifically, a ladder commonly referred to as the Keller Type II Ladder.
3. That on June 1, 2005, Plaintiff, KENNETH FLETCHER purchased a Keller Type II Ladder at the MENARDS Store located at 2450 West Jefferson Street, Joliet, Illinois.
4. That on or about January 13, 2006, Plaintiff, KENNETH FLETCHER, was using the Keller Type II ladder in the manner for which it was intended, in his garage, located at 2811 Von Esch Road, Joliet, Illinois.
5. At said time, and while Plaintiff was on the third step of the ladder, the side-arm brace buckled, causing Plaintiff to fall off of the ladder.
6. That, as a result of Plaintiff's fall on January 13, 2006, he sustained injuries to his person, including, but not limited to the right side of his buttock, tailbone, and right leg.

Case Management set to

7. That at all times relevant, Defendant, WERNER, had a duty to design, manufacture, distribute and sell the Keller Type II ladder so that it was neither defective, nor unreasonably dangerous when put to the use for which it was designed, manufactured, distributed and sold.

8. That at said time and place, the Defendant, WERNER, was guilty of one or more of the following acts of negligence and/or carelessness, to wit:

- a. The Defendant, WERNER, failed to warn consumers, such as the Plaintiff, of the dangers and potential for injury presented by the use of Keller Type II ladder, when they knew or should have known of such dangers and potential for injury.
- b. Failed to include sufficient and adequate Instructions and warnings;
- c. Failed to adequately design and construct the Keller Type II ladder so as to accommodate its weight bearing use as advertised;
- d. Failed to properly design and manufacture the Keller Type II ladder so as not present an unreasonably high propensity to collapse upon use for which it was intended.

9. That as a direct and proximate result, the Plaintiff, KENNETH FLETCHER, became sick, sore, lame and disordered, suffered pain and anguish and has become permanently disabled, incurred medical expenses, lost time from his usual occupation and duty and will continue such losses for the rest of his life.

ALL TO THE DAMAGE of Plaintiff, KENNETH FLETCHER, in a sum in excess of FIFTY THOUSAND AND NO/100THS (\$50,000.00) DOLLARS.

WHEREFORE the Plaintiff, KENNETH FLETCHER, prays for judgment in his favor and against the Defendant, WERNER COMPANY, in a sum in excess of FIFTY THOUSAND AND NO/100THS (\$50,000.00) DOLLARS, together with costs of suit.

#### **COUNT II**

NOW COMES, the Plaintiff, KENNETH FLETCHER, by and through his attorneys, BLOCK KLUKAS & MANZELLA, P.C., and complaining of the Defendant, MENARD, INC. states as follows:

1. That Defendant, MENARD, INC., is a foreign corporation, licensed to do business in the State of Illinois.

2. That on or about January 13, 2006, and for sometime prior thereto, MENARD, INC. (hereinafter referred to as "MENARDS") was a seller and distributor of ladders, specifically, the ladder commonly referred to as the WERNER manufactured Keller Type II Ladder.

3. That on June 1, 2005, Plaintiff, KENNETH FLETCHER purchased a Keller Type II Ladder at the MENARDS Store located at 2450 West Jefferson Street, Joliet, Illinois.

4. That on or about January 13, 2006, Plaintiff, KENNETH FLETCHER, was using the Keller Type II ladder in the manner for which it was intended, in his garage, located at 2811 Von Esch Road, Joliet, Illinois.

5. At said time, and while Plaintiff was on the third step of the ladder, the side-arm brace buckled, causing Plaintiff to fall off of the ladder.

6. That, as a result of Plaintiff's fall on January 13, 2006, he sustained injuries to his person, including, but not limited to the right side of his buttock, tailbone, and right leg.

7. That Defendant, MENARDS, had a duty to sell and distribute the Keller Type II ladder so that it was neither defective, nor unreasonably dangerous when put to the use for which it was designed, manufactured, distributed and sold.

8. That at said time and place, the Defendant, MENARDS, was guilty of one or more of the following acts of negligence and/or carelessness, to wit:

- a. The Defendant, MENARDS, failed to warn consumers, such as the Plaintiff, of the dangers and potential for injury presented by the use of Keller Type II ladder, when they knew or should have known of such dangers and potential for injury.
- b. Failed to include sufficient and adequate instructions and warnings;
- c. Failed to determine that the Keller Type II ladder would accommodate its weight bearing use for which it was advertised;
- d. Failed to ensure that the Keller Type II ladder had been properly designed and manufactured so as not to present an unreasonably high propensity to collapse upon use for which it was intended.

9. That as a direct and proximate result, the Plaintiff, KENNETH FLETCHER, became sick, sore, lame and disordered, suffered pain and anguish and has become


permanently disabled, incurred medical expenses, lost time from her usual occupation and duty and will continue such losses for the rest of her life.

ALL TO THE DAMAGE of Plaintiff, KENNETH FLETCHER, in a sum in excess of FIFTY THOUSAND AND NO/100THS (\$50,000.00) DOLLARS.

WHEREFORE the Plaintiff, KENNETH FLETCHER, prays for judgment in her favor and against the Defendant, MENARD, INC., in a sum in excess of FIFTY THOUSAND AND NO/100THS (\$50,000.00) DOLLARS, together with costs of suit.

KENNETH FLETCHER, Plaintiff,

BLOCK KLUKAS & MANZELLA, P.C.

BY:   
THOMAS J. MANZELLA,

THOMAS J. MANZELLA/6274055  
BLOCK KLUKAS & MANZELLA, P.C.  
19 West Jefferson Street  
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Case No.:

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CLERK OF COURT  
WILL COUNTY, ILLINOIS

AFFIDAVIT OF DAMAGES  
PURSUANT TO RULE 222(b) OF THE  
ILLINOIS SUPREME COURT RULES

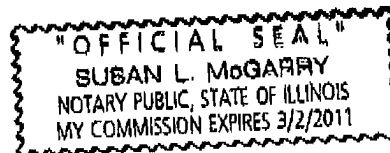
THOMAS J. MANZELLA, one of the attorneys of record for the Plaintiff, KENNETH FLETCHER, in the above entitled cause; being first duly sworn upon oath, deposes and states that to the best of his knowledge, information and belief that the damages sought pursuant to the attached Complaint exceed FIFTY THOUSAND AND NO/100THS (\$50,000.00) DOLLARS.

FURTHER AFFIANT SAYETH NOT.

*Thomas J. Manzella*  
THOMAS J. MANZELLA

Sworn and Subscribed before me:

Date 12-4-07  
*Susan L. McGarry*  
Notary Public/Circuit Court Clerk



THOMAS J. MANZELLA/6274055  
BLOCK, KLUKAS & MANZELLA, P.C.  
19 West Jefferson Street  
Joliet, Illinois 60432  
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